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OFFICE OF PETITIONS

In re Application of
Anthony J. Nadalin, et. al.
Application No. 09/321,788
Filed: May 27, 1999
Attorney Docket No. AT9-99-081

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed September 17, 2004, and no extensions of time under the provisions of 37 CFR 1.136(a) was obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated.

See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned after midnight November 17, 2004. See MPEP 1215.04.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The Office acknowledges receipt of \$1,500 for the petition fee and an appeal brief filed on October 24, 2006. However, petitioner failed to submit the required appeal brief fee of \$500. Since the general authorization filed on October 24, 2006 only authorized a charge for fees required under 37 CFR 1.16 and 1.17, the \$500 appeal brief fee could not be charged to the listed deposit account. Therefore, revival of the above application cannot occur until the \$500 fee has been received.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

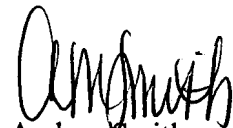
Further correspondence with respect to this matter should be addressed as follows:

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The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions